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9 QUIKSILVER, INC.

10
11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**
13

14 CLAYTON D. BLEHM, dba FDC
15 Investments, Inc.,

16 Plaintiff,

17 v.

18 BETSY MCINTYRE and
19 QUIKSILVER, INC.,

20 Defendants.

Case No. 08CV1358 BTM NLS

**JOINT MOTION AND REQUEST
FOR ORDER EXTENDING TIME
FOR QUIKSILVER, INC. TO FILE
A SPECIAL MOTION TO STRIKE
PLAINTIFF'S COMPLAINT;
[PROPOSED] ORDER THEREON**

Judge: Hon. Barry Ted Moskowitz
Courtroom: 15

21 This Joint Motion, entered into by and between Plaintiff Clayton D.
22 Blehm dba FDC, Investments, Inc. ("Plaintiff"), Defendant United States of
23 America, and Defendant Quiksilver, Inc. ("Quiksilver"), by and through their
24 respective counsel of record herein, is made with reference to the following facts
25 and recitals:

26 WHEREAS, on or about May 28, 2008, Plaintiff filed his complaint in
27 the San Diego Superior Court;

28 WHEREAS, on or about July 28, 2008, Defendant United States of
America removed this action from the San Diego Superior Court to this Court;

1 WHEREAS, on or about August 4, 2008, Quiksilver filed a Motion to
2 Dismiss Plaintiff's Complaint or, in the Alternative, Motion to Stay the Action
3 Pending Resolution of Prior State Court Action (the "Motion to Dismiss or Stay the
4 Action");

5 WHEREAS, Quiksilver's Motion to Dismiss or Stay the Action is set
6 to be heard by the Court on October 17, 2008, at 11:00 a.m.;

7 WHEREAS, Quiksilver believes that it also has good grounds to bring
8 a special motion to strike the complaint under California Code of Civil Procedure
9 Section 425.16(b), which authorizes a special motion to strike a strategic lawsuit
10 against public participation, known as an "anti-SLAPP motion";

11 WHEREAS, absent an extension of time, Quiksilver's time to bring an
12 anti-SLAPP motion will run on August 21, 2008;

13 WHEREAS, Quiksilver believes it would be premature to file an anti-
14 SLAPP motion in light of the pending Motion to Dismiss or Stay the Action, which,
15 depending on the Court's ruling thereon, may result in a dismissal of certain claims
16 rendering an anti-SLAPP motion either irrelevant or unnecessary, or may result in a
17 stay of the action;

18 WHEREAS, Quiksilver requested that all parties stipulate to an
19 extension of time for Quiksilver to bring an anti-SLAPP motion, and all parties
20 agreed to this request;

21 THEREFORE, IT IS HEREBY STIPULATED by and between the
22 parties herein as follows:

23 1. That Quiksilver shall file its anti-SLAPP motion, if necessary,
24 within 30 days of the Court issuing a ruling on Quiksilver's pending motion to
25 dismiss, or within 30 days of Plaintiff filing an amended complaint, if an amended
26 complaint is filed, whichever date is later;


27 2. That, in the event the Court grants Quiksilver's motion in the
28 alternative to stay the action pending resolution of a prior state court action,

1 Quiksilver shall file its anti-SLAPP motion, if necessary, within 30 days following
2 the release of any such stay; and

3 3. The parties respectfully request that the Court issue an order
4 consistent with the stipulation set forth in this Joint Motion.

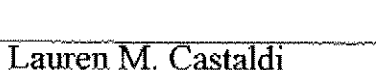
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6 DATED: August 19, 2008

LAW OFFICE OF ROY R. WITHERS

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8 By: 
9 Roy R. Withers
10 Attorneys for Plaintiff Clayton D.
11 Blehm dba FDC Investments, Inc.

12 DATED: August 19, 2008

13 TRIAL ATTORNEYS, TAX
14 DIVISION
15 U.S. DEPARTMENT OF JUSTICE

16 By: 
17 Lauren M. Castaldi
18 Attorneys for the United States of
19 America

20 DATED: August 19, 2008

O'MELVENY & MYERS LLP

21 By: 
22 Molly J. Magnuson
23 Attorneys for Defendant Quiksilver, Inc.
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6 DATED: August 19, 2008

LAW OFFICE OF ROY R. WITHERS

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8 By: Roy W. Withers
9 Attorneys for Plaintiff Clayton D.
Blehm dba FDC Investments, Inc.

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11
12 DATED: August 20, 2008

TRIAL ATTORNEYS, TAX
DIVISION
U.S. DEPARTMENT OF JUSTICE

13
14 By: s/Lauren M. Castaldi
15 Lauren M. Castaldi
16 Attorneys for the United States of
America

17
18 DATED: August 20, 2008

O'MELVENY & MYERS LLP

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20 By: s/Molly J. Magnuson
21 Molly J. Magnuson
22 Attorneys for Defendant Quiksilver, Inc.